



VARIANCE APPLICATION

THIS APPLICATION MUST BE FILED IN PERSON, IT
CAN NOT BE ACCEPTED BY MAIL

FY2005
Case #: <u>06-026</u>
Date Filed: <u>2-7-06</u>
Meeting Date: _____
Received By: _____
Office Use Only

Variance requested on property located at: 2247 WESTMINSTER PLACE

Property Zoned: R-3

Tax Parcel #: 17502322

Property Owner: WILLIAM A. MILLER

Date Existing Structure Erected: 1925

TO THE CHARLOTTE ZONING BOARD OF ADJUSTMENT:

I WILLIAM A. MILLER, hereby petition the Board of
(name)

Adjustment for a VARIANCE from the literal provisions of the Charlotte Zoning Ordinance because, under the interpretation given to me by the Zoning Administrator, I am prohibited from using the parcel of land described above in a manner shown by the Plot Plan attached to this form. I request a variance from the following provisions of the Zoning Ordinance (cite Section numbers and Code requirements):

SECTION 9.205 DEVELOPMENT STANDARDS FOR SINGLE FAMILY DISTRICTS
(1)(8) MINIMUM REAR YARD (feet) FOR R-3 REQUIRES 45'.

Describe the VARIANCE being requested on the above referenced property:

THE EXISTING HOME, BUILT IN 1925, PRESENTLY ENCLOSES 20.5' INTO
THE REAR SETBACK AREA. WE ARE REQUESTING A VARIANCE TO ADD ON TO
THE SIDE OF THE KITCHEN (AND ABOVE), ROUGHLY FOLLOWING THE SAME
REAR BUILDING LINE OF THE EXISTING STRUCTURE; THIS ADDITION WOULD,
THEREFORE, FALL WITHIN THE CURRENT 45' REAR SETBACK REQUIREMENT
FOR R-3 ZONING.

FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE:

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. Under the state enabling act, the Board is required to reach three conclusions as a prerequisite to the issuance of a variance: (a) that there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance, (b) that the variance is in harmony with the general purposes and intent of the Ordinance and preserves its spirit, and (c) that in the granting of the variance, the public safety and welfare have been assured and substantial justice has been done. In the following spaces, indicate the facts and the argument you plan to render, in order to convince the Board, to properly determine that each of these three (3) CONCLUSIONS are applicable to this structure and site.

- (a) **THERE ARE PRACTICAL DIFFICULTIES OR UNNECESSARY HARDSHIPS IN THE WAY OF CARRYING OUT THE STRICT LETTER OF THE ORDINANCE.** The courts have developed three rules to determine whether, in a particular situation, "practical difficulties or unnecessary hardships" exist. State facts and arguments in support of each of the following:

- (1) If the property owner/applicant complies with the provisions of the Ordinance, the property owner can secure no reasonable return from, or make no reasonable use of, his property. (It is not sufficient that failure to grant the variance simply makes the property less valuable.)

THE PECULIARITIES OF THE EXISTING STRUCTURE AS ALREADY
SITED ON THIS SMALL LOT POSE UNFORESEEN LIMITATIONS TO
AN EXPANSION OF THIS SINGLE FAMILY HOME THAT WOULD BE
IN KEEPING WITH THE CRAFTSMAN STYLE IN WHICH IT WAS
BUILT.

- (2) The hardship of which the Applicant complains results from unique circumstances related to the Applicant's land. (Note: Hardships common to an entire neighborhood, resulting from overly restrictive zoning regulations, should be referred to the Charlotte-Mecklenburg Planning Commission. Also, unique personal or family hardships are irrelevant since a variance, if granted, runs with the life of the land.)

THIS HOME WAS SITED AS EXISTS IN 1925, AND LOCATED ONLY
25' FROM THE REAR PROPERTY LINE. THE CURRENT ZONING
REGULATIONS WOULD REQUIRE THAT ANY ADDITION TO THE
FOOTPRINT OF THE HOME TAKE PLACE 20.5' FORWARD OF
THE REAR WALL OF THE HOME. SINCE IT IS THE KITCHEN WE
WISH TO EXPAND ON THIS FLOOR, AND THE KITCHEN IS NESTLED
AGAINST THE REAR WALL OF THE HOME, WE CANNOT EXPAND
THE KITCHEN SIDEWAYS (2) WITHOUT THE REQUESTED VARIANCE.

- (3) The hardship is not the result of the Applicant's own actions.

THE PECULIARITIES OF THE SITE (I.E. THE SIZE OF THE LOT, THE PLACEMENT OF THE HOME ON THE LOT, THE LOCATION OF THE KITCHEN AT THE REAR OF THE HOME) AND THE FACT THAT THE ZONING REGULATIONS IMPOSED AFTER THE CONSTRUCTION OF THE HOME MAKING IT NON-COMPLIANT PRE-DATED MY PURCHASE OF THE HOME.

- (b) **THE VARIANCE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE AND PRESERVES ITS SPIRIT.** (State facts and arguments to show that the requested variance represents the least possible deviation from the letter of the Ordinance to allow a reasonable use of the land; and, that the use of the property, if the variance is granted, will not substantially detract from the character of the neighborhood.)

THE HOME IS CURRENTLY NON-COMPLIANT BY 20.5' WITH RESPECT TO THE REAR SETBACK. ALL WE SEEK TO DO IS FOLLOW THE EXISTING REAR BUILDING LINE OF THE HOME TO ALLOW FOR THE ADDITION OF A BREAKFAST NOOK TO THE KITCHEN AND EXPANSION OF THE KITCHEN (PLUS 2ND FLOOR BEDROOMS). ALLOWING AN EXPANSION IN THIS MANNER WILL ENABLE US TO PRESERVE THE CRAFTSMAN CHARACTER OF THE HOME, AND A 142" CIRCUMFERENCE OAK TREE TO THE SIDE OF THE HOUSE. NEITHER OF THESE WOULD BE POSSIBLE IF WE EXPANDED W/O THE VARIANCE.

- (c) **THE GRANTING OF THE VARIANCE SECURES THE PUBLIC SAFETY AND WELFARE AND DOES SUBSTANTIAL JUSTICE.** (State facts and arguments to show that, on balance, if the variance is denied, the benefit to the public will be substantially outweighed by the harm suffered by the Applicant.)

AS STATED, WE WISH TO RENOVATE THIS HOME TO A PROPER LEVEL OF FUNCTION FOR OUR GROWING FAMILY. AND WE WANT TO MAINTAIN THE UNIQUE CRAFTSMAN NATURE OF THE HOME WHILE PRESERVING THE TREE CANOPY. W/O THE VARIANCE, WE WOULD NOT BE ABLE TO EXPAND THE KITCHEN, AND THE SECOND FLOOR RENOVATIONS AND ADDITIONS WOULD NECESSARILY FOLLOW A COURSE RESULTING IN LOSS OF TREE CANOPY, AND LESS HISTORICAL APPEARANCE FOR THE HOME... NONE OF WHICH IS DESIRED IN THIS HISTORICALLY SIGNIFICANT NEIGHBORHOOD.

I certify that all of the information presented by me in this application is accurate to the best of my knowledge,

WILLIAM MILLER
Printed Name of Appellant

Printed Name of Representative (if any)

2247 WESTMINSTER PLACE
Mailing Address

Mailing Address

CHARLOTTE, NC 28207
City, State, Zip

City, State, Zip

704-334-8843
Telephone Number Fax Number

Telephone Number Fax Number

BILLMILLER@CAROLINA.PB.COM
E-Mail Address

E-Mail Address

William Miller
Signature of Appellant

Represented By (Signature)

IF THE APPELLANT IS NOT THE OWNER OF THE PROPERTY FOR WHICH THE APPEAL IS BEING REQUESTED, indicate the owner's name and address:

Property Owner (If different from Appellant)

Address

City, State & Zip

TYPE OR PRINT below the COMPLETE names, tax parcel numbers, mailing addresses and zip codes for the owners of the adjacent properties, including the properties directly across the street from the property, for which a variance is being requested. (Property ownership information is available at:

<http://meckcama.co.mecklenburg.nc.us/relookup/> or
<http://mcmf.co.mecklenburg.nc.us:3007/cics/txre/txre00i>

ADJACENT PROPERTY OWNERS:

- | | | |
|-----|---|-----------------------|
| 1. | MARY N. PUKUIS
2226 SHARON ROAD
CHARLOTTE, NC 28207 | Tax Parcel # 17502306 |
| 2. | DANIEL P. + LEANNE M. IMMISOETE
2230 SHARON ROAD
CHARLOTTE, NC 28207 | Tax Parcel # 17502305 |
| 3. | LORENA KELLOG
2234 SHARON ROAD
CHARLOTTE, NC 28207 | Tax Parcel # 17502304 |
| 4. | M. EUGENE + ALLISON A WOOD III
2241 WESTMINSTER PLACE
CHARLOTTE, NC 28207 | Tax Parcel # 17502321 |
| 5. | CAROL B. TOMLINSON
2253 WESTMINSTER PLACE
CHARLOTTE, NC 28207 | Tax Parcel # 17502323 |
| 6. | MELISA B. JOHNS
2250 WESTMINSTER PLACE
CHARLOTTE, NC 28207 | Tax Parcel # 17502228 |
| 7. | JAMES F. + NANCY L. AYERS
2254 WESTMINSTER PLACE
CHARLOTTE, NC 28207 | Tax Parcel # 17502227 |
| 8. | BENJAMIN GIBBS HEILMAN JR.
2258 WESTMINSTER PLACE
CHARLOTTE, NC 28207 | Tax Parcel # 17502226 |
| 9. | | Tax Parcel # |
| 10. | | Tax Parcel # |

These persons, including the Appellant and the representative, will be notified in writing of the time and place of the hearing. (Attach additional sheet if necessary).

February 6, 2006

Attn: Katrina Young
Zoning Department/Mecklenburg County Engineering and Building Standards Department

Re: 2247 Westminster Place
Application for Variance
February 28th Meeting

Dear Katrina,

Please find the enclosed application for the zoning variance and attached information for your review. The site plan shows the restrictable building area due to the newer setback restrictions imposed since the house was constructed (1925).

I have also included several photographs which might better show the unique circumstances of this site. As I understand it, the home as it currently sits is classified as "non-compliant, legal", because it encroaches on the rear setback by a distance of approximately 20.5'. What I and my architect, Kent Lineberger, are proposing to do is to be able to add on to the kitchen approximately 10-12' out the right side of the home, and to add on a second story over only a portion of the existing 1st floor and this "breakfast nook". Our primary objective with this proposed layout is to preserve a large oak tree (142" circumference) immediately in front of the addition to the footprint, and to maintain the Craftsman character of the home, so that from the street, it will lose none of its charm.

This proposed addition will **not** encroach any further on the rear setback than the house currently does. It would still provide for approximately 15' between the house and the side property line. Under the R-3 zoning, it furthermore still would satisfy the open space requirement of 35% maximum allowable coverage (<2,700 sf (proposed) covered versus the 2,835 sf allowed).

I believe that in as much this proposal does not ask for any further encroachment into the rear setback (other than already exists), and is necessitated by our desire to maintain the canopy proved by the oak tree to the side of the house, as well as the home's unique Craftsman character, the Board might look favorably upon our request.

Thanks very much for your help with this. Please do not hesitate to contact me if I can provide any further information to you, or answer any questions you might have.

Sincerely,

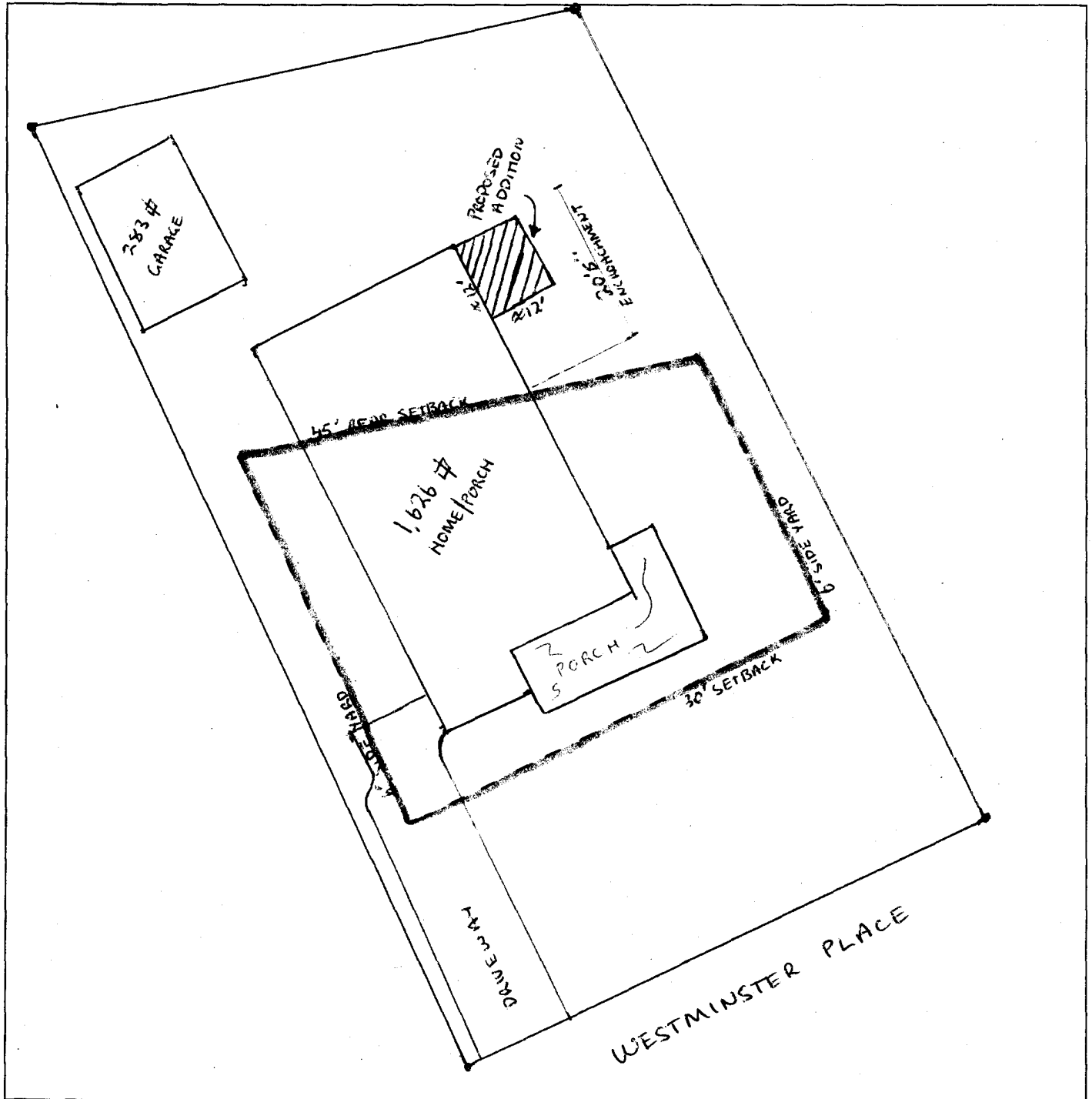


Bill Miller
704-334-8843
billmiller@carolina.rr.com

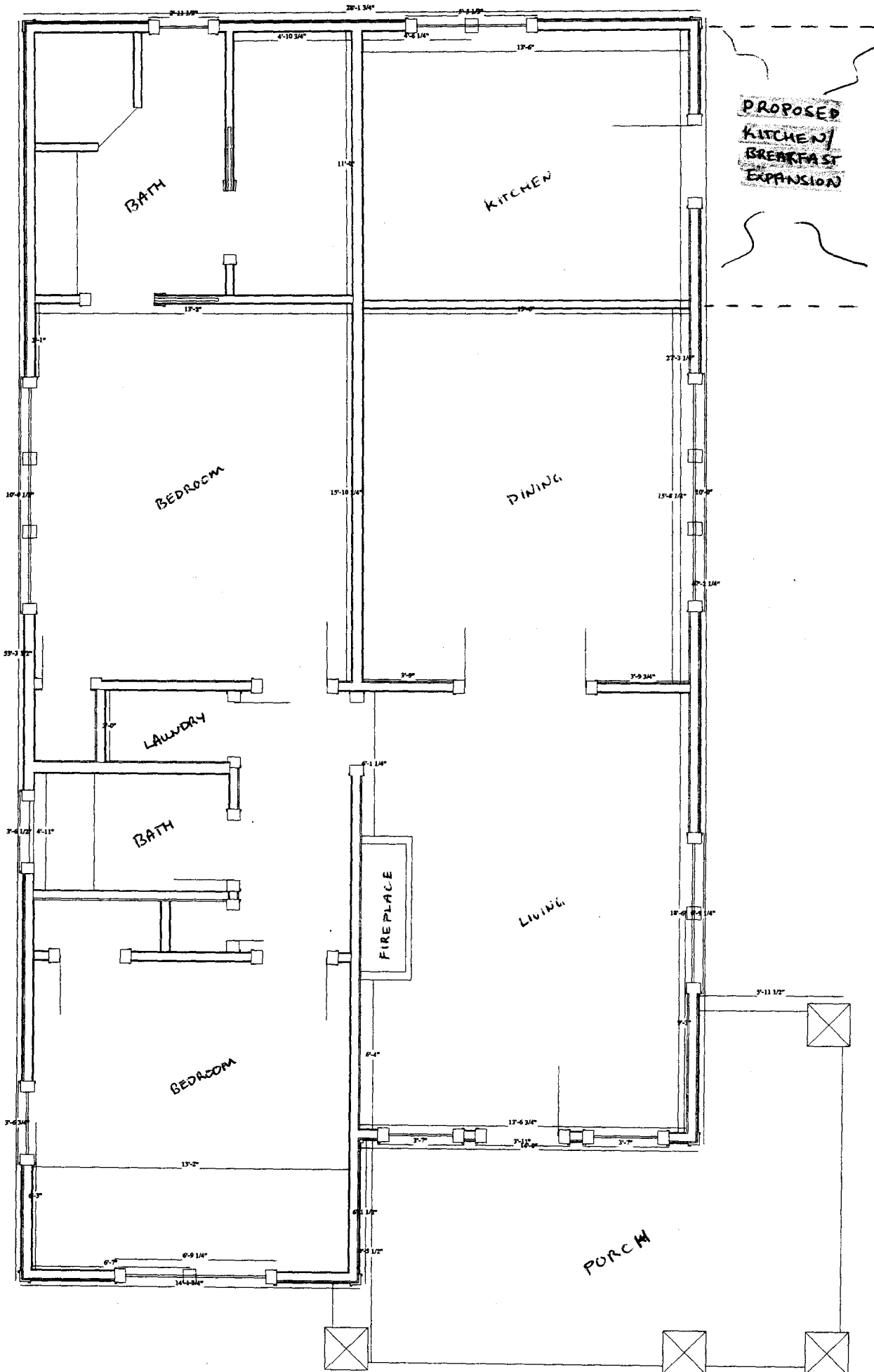


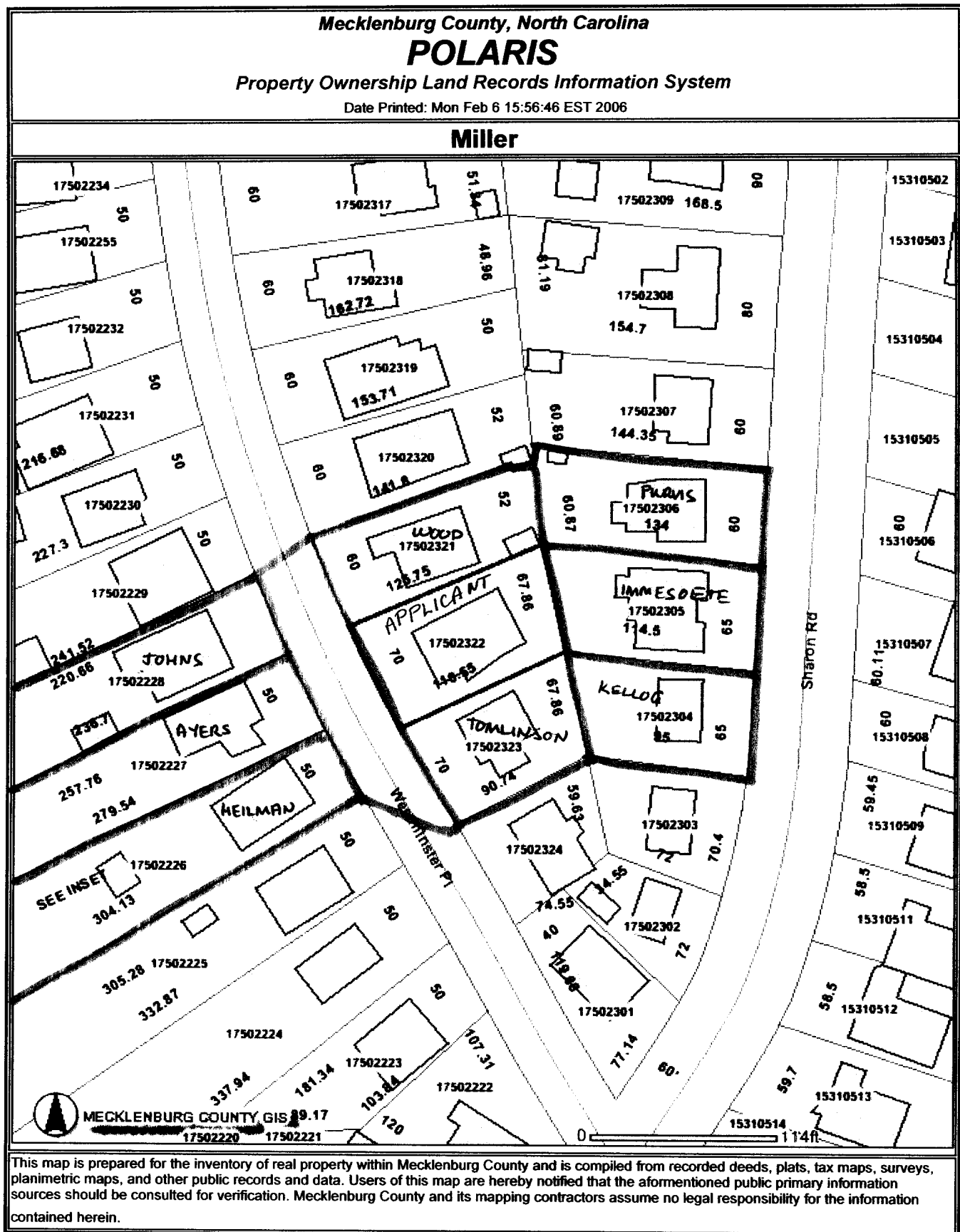
PROPOSED
ADDITION
AT THIS
CORNER

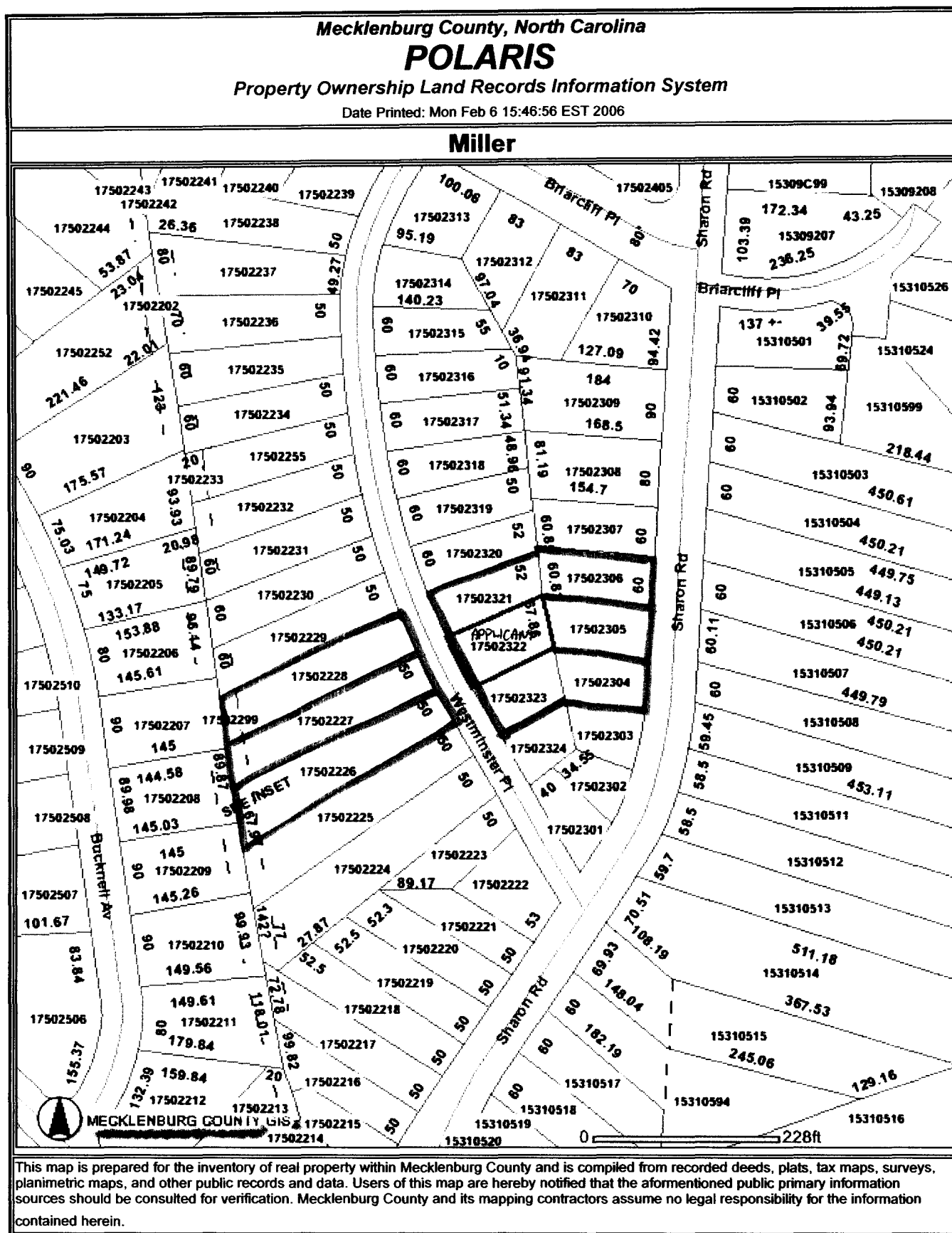
ATTACH A PHYSICAL SURVEY OR DRAW A SITE PLAN, TO SCALE, DESCRIBING THE PROPERTY AND VARIANCE REQUEST. PROVIDE ALL APPROPRIATE DIMENSIONS; LOCATE ALL EXISTING AND PROPOSED BUILDINGS/STRUCTURES, AND PROVIDE THEIR DISTANCE TO THE PROPERTY LINES, RIGHTS-OF-WAY, ETC.



06-026







CHARLOTTE CODE

PART 2: SINGLE FAMILY DISTRICTS

Section 9.205. Development standards for single family districts.

All uses and structures permitted in the R-3, R-4, R-5, R-6 and R-8 districts shall meet the applicable development standards established in this Section and all other requirements of these regulations:

(1) Area, yard and bulk regulations shall be as follows:

	<u>R-3</u>	<u>R-4</u>	<u>R-5</u>	<u>R-6</u>	<u>R-8</u>
(a) Maximum Residential Density (Dwelling (units per acre) ¹	3.0	4.0	5.0	6.0	8.0
(b) Maximum floor area ratio for nonresidential buildings	.50	.50	.50	.50	.50
(c) Minimum lot area (square feet) ²					
- Detached dwellings	10,000*	8,000*	6,000	4,500	3,500
- Duplex dwellings	16,000**	13,000**	10,000**	8,000**	6,500**
- Triplex dwellings					9,500**
- Quadraplex dwellings					11,500**
- Nonresidential buildings	12,000	12,000	12,000	12,000	12,000
(d) Minimum lot width (feet)					
- Residential dwellings	70	60	50	40	40
- Nonresidential buildings	70	70	70	70	70
(e) Minimum setback (feet) ³	30	30	20	20	20
(f) Minimum side yard (feet) ⁴	6	5	5	5	5
(g) Minimum rear yard (feet)	45	40	35	30	20
(h) Minimum open space (%) ⁵	65	65	65	60	50
(i) Maximum height (feet) ⁶	40	40	40	40	40

* Also, see Section 9.205(2)

**If land is sold with an attached dwelling, the minimum sub lot size must be sufficient to accommodate the dwelling unit and 400 square feet of private open space.